IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 530/2006
(Ganga Ram Vs. State of Rajasthan & Ors.)

Date of Order : 14/09/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Anuj Sahlot for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 19.3.2005 passed by Additional Chief Judicial Magistrate, Begun, district Chittorgarh (for short 'the trial court' hereinafter), whereby the trial court took the cognizance of offences under Sections 420, 466, 468, 471 and 120-B IPC against the present petitioner and non-petitioners No. 3 and 4.

I have heard learned counsel for the petitioner. Perused the order impugned.

It is contended by learned counsel for the petitioner that there is bar of Section 195 (1) (b) (ii) of Cr.P.C.

In Iqbal Singh Marwah and Anr. Vs. Meenakshi

Marwah and Anr. (2005) 4 SCC 370, while considering the scope of applicability of bar under Section 195 (1) (b) (ii) Cr.P.C., Hon'ble Supreme Court held that the Bar under this Section would be attracted only when the offences enumerated in S. 195 (1) (b) (ii) have been committed with respect to a document after it has been produced or given in evidence in a proceeding in any court i.e. during the time when the document was in custodia legis.

In the instant case, the allegation against the present petitioner is that a notice was issued from a competent Court and the petitioner being a process server took the notice for service on the non-petitioner No.2. Instead of service of notice on the non-petitioner No.2, the petitioner himself affixed his thumb impression as having received the notice knowing it well that he is not the recipient but only the process server. In the circumstances, therefore, it cannot be said that the document was produced and tendered in evidence in any Court.

The petition has no force and it is therefore, dismissed.

(H.R.PANWAR),J.

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